

# **FREDERICK COUNTY PLANNING COMMISSION**

**June 14, 2017**

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**TITLE:** Talbot Ridge Farm, Section 3, Lots 4-8

**FILE NUMBER:** S-1087, AP 15294 (APFO 15295, FRO 15296)

**REQUEST:** **Combined Preliminary/Final Plat**  
The Applicant is requesting combined preliminary/final approval for a 5-lot Agricultural Cluster subdivision on a 250.59-acre property.

**PROJECT INFORMATION:**

**ADDRESS/LOCATION:** Located on the east side of Talbot Run Road, opposite of Peddicord Road  
**TAX MAP/PARCEL:** Map 71, Parcel 18  
**COMP. PLAN:** Agricultural/Rural  
**ZONING:** Agricultural  
**PLANNING REGION:** New Market  
**WATER/SEWER:** No Planned Service

**APPLICANT/REPRESENTATIVES:**

**APPLICANT:** David E. Fleming Family Limited Partnership  
**OWNER:** David E. Fleming Family Limited Partnership  
**SURVEYOR/ENGINEER:** Vanmar Associates, Inc.  
**ARCHITECT:** N/A  
**ATTORNEY:** N/A

**STAFF:** Mike Wilkins, Principal Planner II

**RECOMMENDATION:** Conditional Approval

**ATTACHMENTS:**

**EXHIBIT 1-** Combined Preliminary/Final Plat

## STAFF REPORT

### ISSUE

The Applicant is requesting combined preliminary/final plat approval for a 5-lot Agricultural Cluster subdivision on a 250.59-acre property.

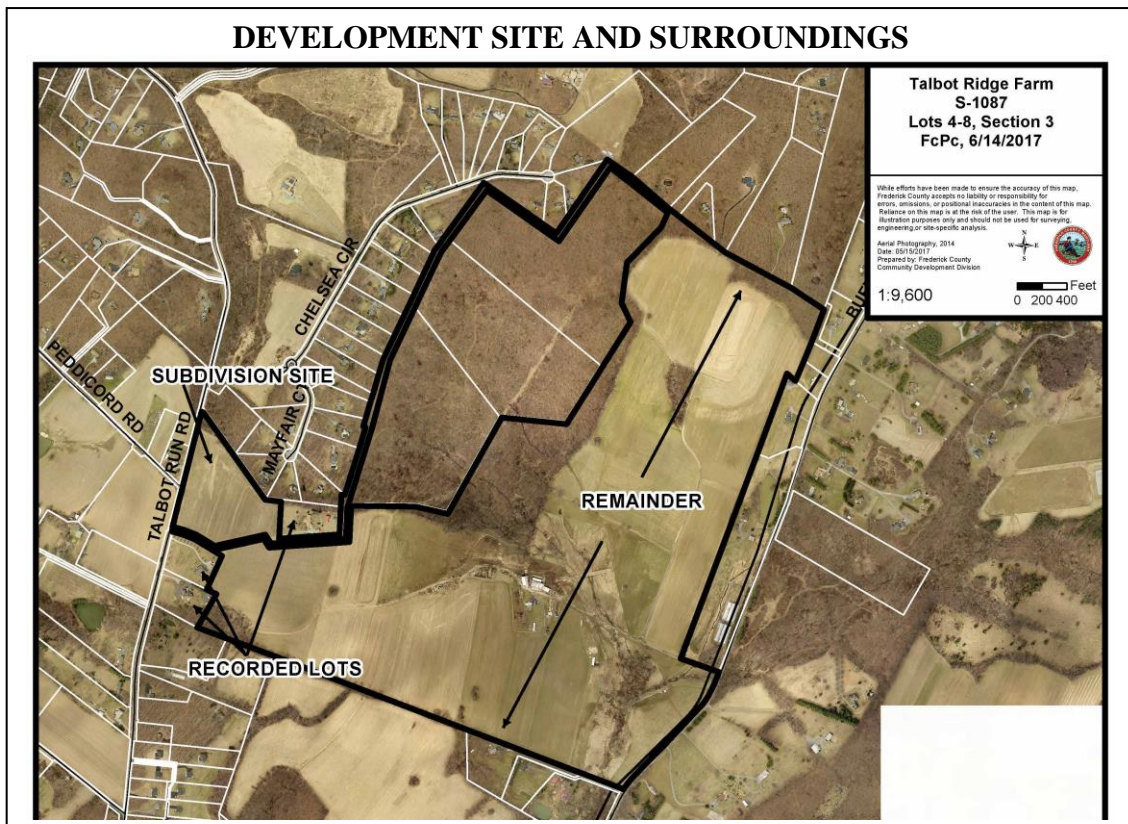
### BACKGROUND

The Applicant proposes to utilize the Agricultural Cluster provisions of §1-19-7.300(C) to increase the total lot yield of the property from 3 lots plus a remainder, to 8 lots plus a remainder. An Agricultural Cluster Concept Plan was reviewed and approved by the Planning Commission on April 9, 2017. The number and design of the lots matches the layout shown on the approved concept plan.

This property has been the subject of several previous subdivision applications:

- In 1992, a 3.4714 acre lot was created (Talbot Ridge Farm, Section 1, Lot 1, P.B. 49 P.G. 161).
- In 1995, two lots totaling 6.00 acres were recorded (Talbot Ridge Farm, Section 1, Lots 2 and 3, P.B. 56 P.G. 115).
- In January 1996, an Ag Cluster Concept Plan for the subject parcel and an adjoining parcel was approved by the FCPC for 11 lots.
- In February 1996, the FCPC reviewed a Preliminary Plan application for the 11 lot Ag Cluster and granted approval for percolation testing only. It appears this plan never moved forward due to failure to pass the APFO for school adequacy.
- On April 9, 2014, the FCPC approved the Ag Cluster plan for Talbot Ridge Farm, Section 3, Lots 4-8.

This proposed 5-lot Ag Cluster subdivision will create a total of 8 lots since 1965 and is a major subdivision.



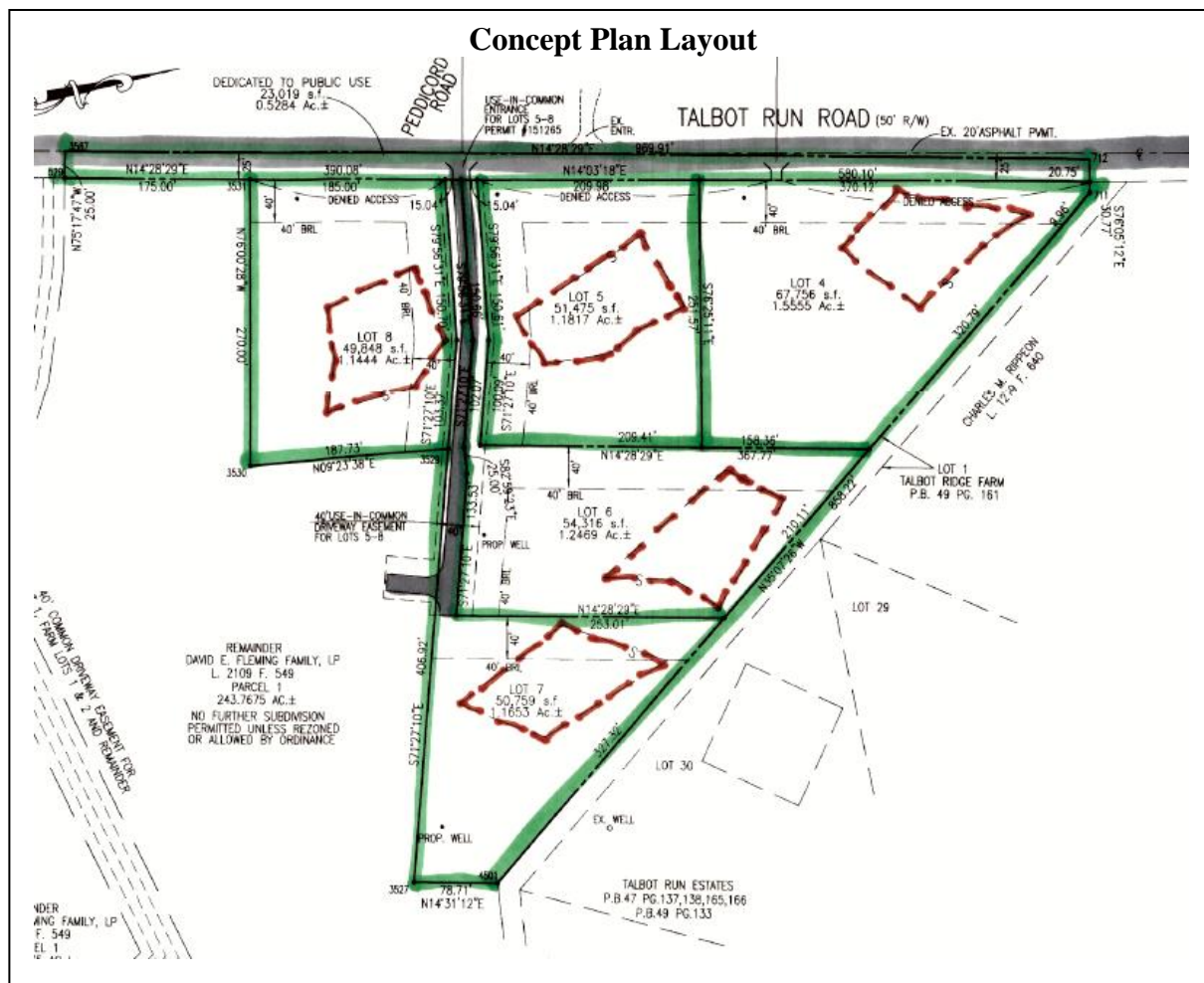
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## Existing Site Characteristics

The property consists of a single parcel containing 250.59. Approximately 209 acres is utilized for farming and 34 acres is forested (including approximately 27 acres preserved under Frederick County FRO easements). The 6.29 acres proposed to be subdivided into lots is currently used for farming.



## ANALYSIS

### A. ZONING ORDINANCE REQUIREMENTS

#### 1. § 1-19-7.300. AGRICULTURAL DISTRICT.

**§1-19-7.300(B):** *The minimum lot size for single-family dwellings will be 40,000 square feet...*

**§1-19-7.300(C)(2)(c):** *Clustering Requirements. Minimum lot size, width and yard areas shall be as specified in the Agricultural District. Lot size shall average not more than 1.5 acres in size with no lots exceeding 2 acres. The Planning Commission shall have the authority to grant modifications to lot sizes based on percolation and other Health Department requirements.*



All of the proposed lots meet the minimum 40,000 sq ft lot size requirement. The proposed minimum lot width (100 feet) and yard areas (40 foot front yard, 30 foot rear yard, and 10 foot side yard) meet Agricultural District requirements in accordance with §1-19-6.100 Design Requirements of the Zoning Ordinance.

The average lot size of the 5 proposed lots is 1.26 acres, and the largest lot is 1.56 acres. However, when incorporating the 3 previously recorded lots, the project fails to meet the maximum and average lot size requirements. The 3 previously recorded lots total 9.47 acres and range between 3.00 acres and 3.47 acres in size, which exceed the maximum 2.00 acre lot size provision. The average size of all 8 lots (3 existing and 5 proposed) is 1.97 acres, which does not meet the mandatory 1.50 acre average lot size. The Planning Commission granted a modification to the lot size requirement as part of its approval of the Ag Cluster Concept Plan in April 2014. Since this combined preliminary/final plat proposes the same average lot size as shown on the previously approved Ag Cluster Concept Plan, the 1.97 acre average lot size is satisfactory.

**§1-19-7.300(C)(1): Clustering: Purpose and intent.**

(a) *To encourage the conservation of farmland in the Agricultural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract.*

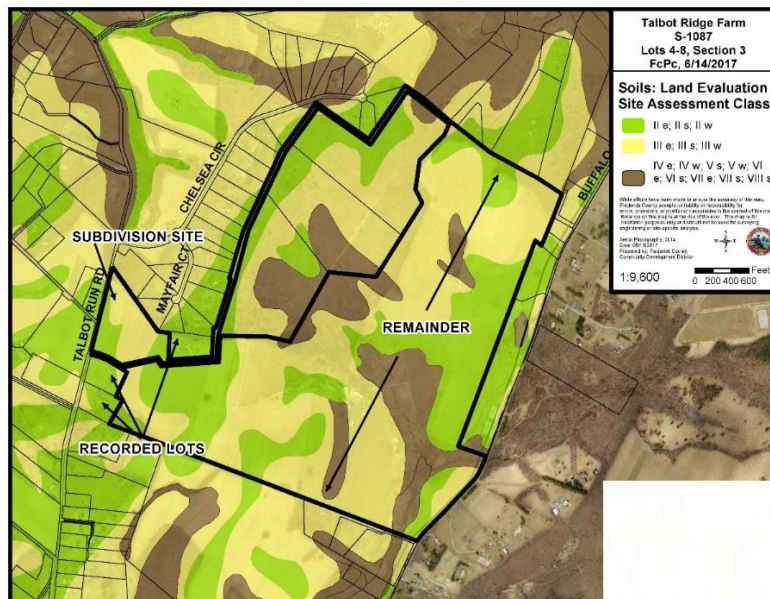
(b) *To provide for a well-planned development while minimizing the use of prime agricultural land.*

**§1-19-7.300(C)(3): Procedures:**

(b) *The Planning Commission will have final approval over the location and layout of the proposed clustering of lots. The Planning Commission shall consider the following when reviewing Concept Plans.*

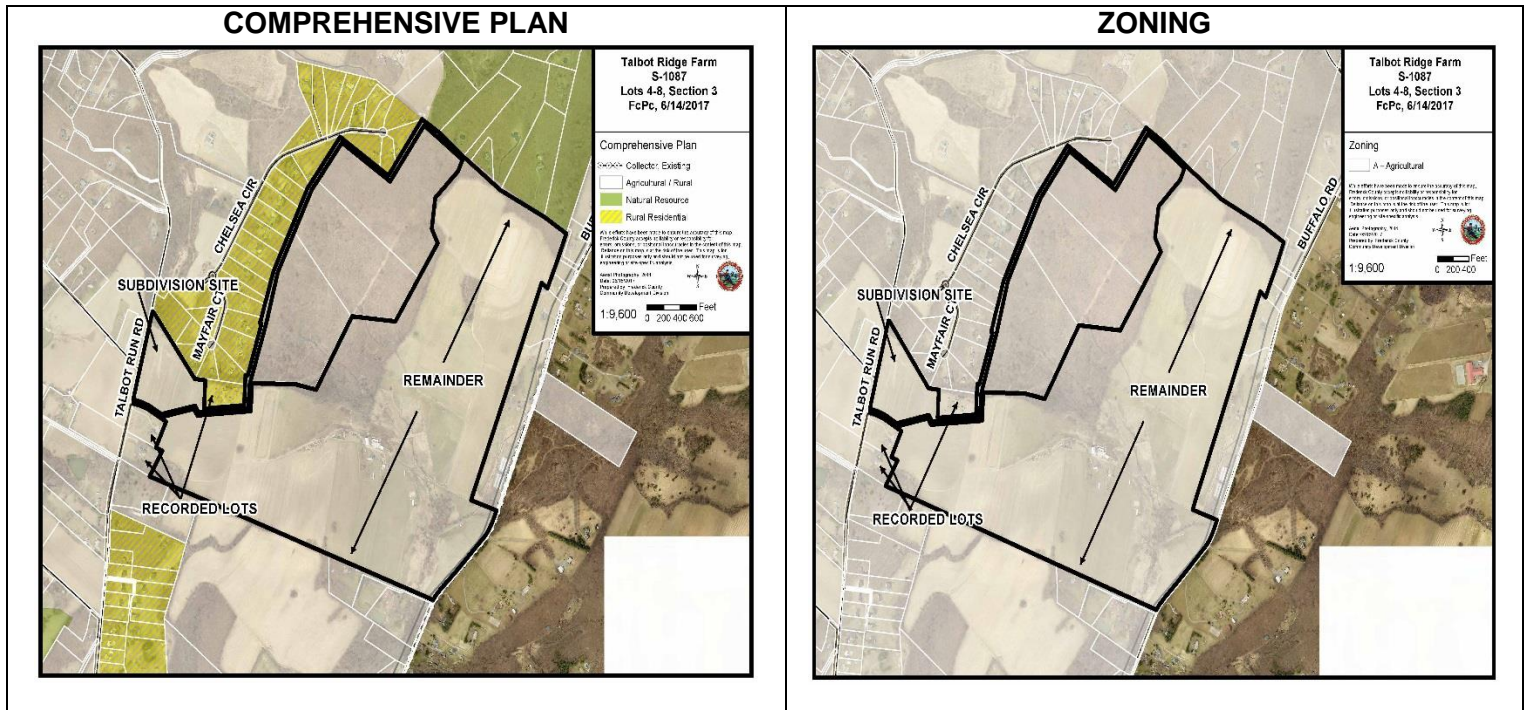
1. *Soils. The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.*

2. *Surrounding land use and zoning. The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.*



The proposed five-lot subdivision is situated along Talbot Run Road, adjacent to an existing 32-lot subdivision (Talbot Run Estates). Most of the 250 acre property consists of Class II and III prime agricultural soils (Class II= GhB, Class III= GgB, GhC, & MeC). Proposed Lots 4, 5, and 8 are within Class II soils, and Lots 6 and 7 are situated within Class III soils. The other areas of the property with adequate road frontage for subdivision also consist of Class II and III soils, therefore avoiding these soils is not feasible. The proposed lots are situated adjacent to existing development and existing residential zoning, providing for the most desirable location on the farm for subdivision.

**Zoning Ordinance Requirements Findings/Conclusions:** The proposed subdivision will meet all Zoning Ordinance requirements.



## B. SUBDIVISION REGULATION REQUIREMENTS

- 1. Land Requirements §1-16-217 (A):** The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.

The subject property has an Agricultural/Rural Comprehensive Plan land use designation (see map above). Per the 2010 Comprehensive Plan, the Ag/Rural designation is applied to areas outside of the Community Growth Areas that may include active farmland, fallow lands, and residential subdivisions that have been developed under the Agriculture zone. The proposed land use and subdivision design complies with the Comprehensive Plan and will meet Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.

- 2. Land Requirements §1-16-217 (B):** The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.

The site design takes advantage of the site topography, wooded areas, water bodies, and adjoining subdivisions, and land uses. The area of the proposed subdivision does not contain any water bodies or forest. As previously discussed, the proposed subdivision is located adjacent to existing rural residential lots.

- 3. Preliminary Plan, Required Information §1-16-72 (B)(19)(a & b):** *Soil types: (a) Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the "wet soils" are located within open space areas.*

Soils information and boundaries are provided on the plan. There are no wet soils within 100 feet of the proposed lots.

- 4. Road Access Requirements. Public Facilities §1-16-12 (B)(3)(b):** *For major subdivisions; Lots must access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.*

The proposed lots will access Talbot Run Road, which has an existing 20 foot wide travelway. Lots 5-8 will share a common driveway, while Lot 4 will have a separate access point. Both proposed driveway entrances meet entrance spacing and sight distance requirements. Lot access will meet the Subdivision Regulation requirements.

- 5. Lot Size and Shape. Panhandle Lots §1-16-219 (C)(2):** *Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that "excellence of design" will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. In each case, the Planning Commission will determine "excellence of design" based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints (Health Department criteria) and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions.*

Proposed Lots 6 and 7 are designed as panhandle lots. A common driveway is proposed within the panhandles of these lots. The proposed common driveway will serve the panhandle lots (Lots 6 and 7) as well as Lots 5 and 8. Staff supports this panhandle design in order to facilitate the Agricultural Cluster requirements of clustering the lots and avoiding stripping the lots along the road. Note 8 on the plat states "lot owners are responsible for any common driveways serving their lots" and "the County will not be responsible for maintenance of common driveways". The Planning Commission must approve a modification to allow panhandles in a major subdivision as part of the approval of this plat.

- 7. Water and Sewer Facilities. Public Facilities §1-16-12 (C):** *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property has a water and sewer classification of No Planned Service and the proposed lots must utilize private wells and septic systems. The percolation tests have been completed. Wells must be drilled prior to lot recordation.

**Subdivision Regulation Requirements Findings/Conclusions:** The project will meet all Subdivision Regulation requirements once all agency comments and conditions are met.

### **C. OTHER APPLICABLE REGULATIONS**

1. **Stormwater Management – Chapter 1-15.2:** Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. A stormwater management plan has been approved (AP 15339).
2. **APFO – Chapter 1-20:** This subdivision is subject to meeting APFO requirements for schools and roads.
  1. **Schools:** Attendance Areas: Twin Ridge ES, Windsor Knolls MS, Liganore HS. The Project is projected to generate 2 elementary school students, 1 middle school student, and 1 high school student. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test passes at all levels.
  2. **Roads:** The previous three lots subdivided after 1991 and the five lots under consideration with this application are expected to generate a total of eight peak hour trips. Since fewer than fifty trips are being generated, the plan is exempt from APFO roads testing. Since more than five trips are generated, the plan is subject to consideration of escrow account contributions, but there are no established escrow accounts nearby.
  3. **Public Water & Sewer:** The Property has a water and sewer classification of No Planned Service (NPS) in the County's *Master Water and Sewer Plan*. Therefore the Water and Sewer APFO provisions are not applicable.
3. **Forest Resource Ordinance – Chapter 1-21:** A Combined Preliminary/Final Forest Conservation Plan has been submitted and has been approved by Staff. The development site contains 0.36 acres forest, which is proposed to be removed. The Applicant is meeting the 1.74 acre FRO mitigation requirement by placing a 3.48 acre easement over existing forest on the remainder. FRO mitigation must be provided prior to lot recordation, grading permits, or building permits, whichever is applied for first.

### **Summary of Agency Comments**

<b><i>Other Agency or Ordinance Requirements</i></b>	<b><i>Comment</i></b>
<b><i>Development Review Engineering (DRE):</i></b>	Hold. Driveway and entrance must be constructed and inspected.
<b><i>Development Review Planning:</i></b>	Hold. Must meet all agency and FcPc comments and conditions.
<b><i>State Highway Administration (SHA):</i></b>	N/A
<b><i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i></b>	N/A
<b><i>Health Dept.</i></b>	Hold. Wells must be drilled and misc. items to address regarding perk test results.
<b><i>Office of Life Safety</i></b>	N/A
<b><i>DPDR Traffic Engineering</i></b>	Approved
<b><i>Historic Preservation</i></b>	N/A

## **RECOMMENDATION**

If the Planning Commission finds that the proposed subdivision meets the Ag Cluster provisions of the Zoning Ordinance, then Staff has no objection to the conditional approval of the Concept Plan.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements. Should the FcPc grant approval of this application (S-1087, AP 15294), Staff recommends that the following items be added as conditions to the approval:

1. Planning Commission approval of the proposed panhandle lots.
2. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
3. FRO mitigation must be provided prior to lot recordation, grading permits, or building permits, whichever is applied for first.
4. This plat and the APFO approval will expire on June 14, 2020 unless the plat is recorded prior to this date.

## **PLANNING COMMISSION ACTION**

### **MOTION TO APPROVE**

I move that the Planning Commission **APPROVE S-1087 (AP 15294), including APFO approval, with conditions** as listed in the staff report for the proposed Talbot Ridge Farm, Section 3, Lots 4-8 based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.